



COASTAL STATES ORGANIZATION

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Comments on Alternative Energy-Related Uses on the Outer Continental Shelf Regulation Identification Number 1010-AD30

5. What assessments should we require prior to competition?

MMS should require assessments necessary to ensure that it fully understands the potential impacts of the proposed alternative energy project on natural resources. If complete assessments are not considered to be “cost effective” then that area should not be leased until sufficient assessments do become cost effective.

7. Should MMS take a broad approach to developing a program, or should efforts be targeted to specific regions?

Both. MMS should take a broad approach but tailor the program to the differences in the respective regions. A broad approach should include MMS looking at the entire OCS with a region and determining where various projects would ideally be located to minimize impacts to natural resources and local communities and provide some sort of incentives for alternative energy projects to be developed in those areas. In other words, MMS should proactively determine the best locations, not simply react to the locations proposed by project developers. But a nation-wide one-size-fits-all approach to the regulations would probably not adequately address the significant differences between the various regions.

9. How should MMS balance existing uses within an area with potential wind and current energy projects?

The balancing of existing and new uses is always a challenge and probably needs to be done on a case by case basis, but due deference should be given to existing uses. The process must be open and transparent and include plenty of opportunity for involvement by all interested parties; not just comment, true involvement in the decision-making process.

10. Should MMS require permits for collecting data from vessels? Should we consider this information proprietary? What criteria should we use for holding the information proprietary?

Whether permits should be required for data collection depends on what data is being collected and how it is being collected. If this question is getting at whether data collection should be required as part of the permit then, yes, data collection should be part of the permit and should clearly identify what data is required and how that data needs to be reported. Regarding the proprietary interest of the information, the strong presumption should be that the information is public. For a “proprietary” designation, the permit holder should have to meet a high legal standard to protect that information from public disclosure because the data collection is for use of a public trust resource and the public should have access to that information to the maximum extent practicable.

11. What criteria (e.g. environmental considerations, energy needs, economics) should MMS consider in deciding whether or not to approve a project? What criteria should MMS consider for different competing projects (i.e. wind versus current) for the same site?

Consideration must be given to the states' authorities under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1451 *et seq.*, which provides that any federal action that might reasonably be expected to affect the state's coastal zone must be determined to be consistent with the state's CZM program. Ideally, MMS will involve states in the ongoing development of the regulatory scheme in a meaningful way over and above commenting.

Other criteria that MMS should consider in developing its regulatory framework are potential impacts to the following: marine and wildlife (including noise); migratory and endangered species; fisheries industry; water quality; air quality; habitats, ship traffic; national security; recreation activities; aesthetics; local culture; and aquaculture.

Also, many states are pursuing regional or state-wide ocean planning or management efforts. At a minimum, MMS should work to ensure that alternative energy development is consistent with those efforts. Ideally, MMS would determine how the development of alternative energy can be integrated with and enhance those regional efforts.

12. What types and levels of environmental information should MMS require for a project?

There is a great need for more information about the bathymetry and benthic and pelagic ecology of the OCS, and the increased interest in alternative energy development on the OCS is a good opportunity to promote the acquisition of the information necessary to make thoughtful, well-informed decisions about proposed uses of the OCS. The acquisition of this information goes back to the response to question 7 above. For MMS to be proactive in the siting of projects, instead of reactive, it will need information of wide swaths of the OCS and not just specific areas where projects are proposed. MMS should partner with the states, NOAA, and other interested parties to determine what the highest priorities of information acquisition are and develop a plan for acquiring that information. At a minimum this information should include detailed bathymetry, substrate type, water temperature, water depth, water chemistry, benthic types, and current information. Required information should also include an analysis of all environmental impacts of the proposed projects on natural resources as well as aesthetics.

13. What types of site-specific studies should MMS require? When should these studies be conducted? Who should be responsible for conducting these studies?

Please see response to question 12 above. The applicant should be responsible for the studies of the individual and alternative sites. MMS should be responsible for the broader effort of data acquisition of the OCS.

30. While MMS considers this ANPR an appropriate start at consultation with interested parties, what other efforts could be undertaken at this early stage of program development?

The U.S. Commission on Ocean Policy strongly advocated for holistic ecosystem management of the nation's ocean resources. MMS has an excellent opportunity to promote the sound stewardship of the OCS by implementing ecosystem-based management to the maximum extent practicable given its statutory mandate. MMS should engage with ongoing regional and states efforts for its continuing consultation seek to *integrate* its alternative energy regulatory scheme with those ongoing efforts around the nation.

31. Should a broad approach be taken to developing a program or should efforts be targeted to specific regions with commensurate coordination and consultation?

Both. Please see response to question 7 above.

32. Would the establishment of Federal/state cooperatives for targeted areas be useful? Similar to the process for OCS oil and gas program formulation, should we solicit comments on which areas of the OCS should be included or excluded from the program? After establishing where there is consensus in support of program activities, should coordination and consultation efforts be directed to those areas? Conversely, should such efforts be curtailed or abandoned for areas recommended for exclusion?

The establishment of federal/states cooperatives for identified areas could be extremely useful because a truly shared review and decision-making process would likely result in greater efficiency and better outcomes for all involved. The consideration of including and excluding areas would best be considered in the context of broader region--wide efforts so alternative energy is not developed in a vacuum but is part of multiple use considerations. Consequently, MMS should not abandon coordination and consultation activities in excluded areas because MMS should be taking a region-wide perspective and not just focusing on the specific sites currently proposed for alternative energy.

34. Should procedures for consulting with interested and affected parties be codified in the regulations? In general? In detail?

Procedures for consulting and coordination should be codified in general but not in detail. The regulations should lay out the goal of consultation and coordination and then generally identify potential classes of stakeholders who should be consulted and why. The various regional coordination efforts are so diverse in their approaches that the regulations should not be too detailed because MMS needs to be flexible enough to adapt its coordination procedures to the ongoing state and regional efforts.

35. What processes can MMS use to provide for balance between consultations and the time and burden of projects?

If MMS can use existing regional organizational structures for coordination and consultation instead of creating new ones, efficiencies will likely be realized.